

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

GILBERT LAU,

Plaintiff,

1:20-cv-801 (BKS/CFH)

v.

NYSARC TRUST SERVICE, INC. et al.,

Defendants.

Appearances:

Plaintiff pro se:
Gilbert Lau
New York, NY 10156

Hon. Brenda K. Sannes, United States District Judge:

MEMORANDUM-DECISION AND ORDER

Plaintiff pro se Gilbert Lau filed this action against Defendant NYSARC Trust Service, Inc. (“NYSARC”) and individual NYSARC officials alleging violations of Title III of the Americans with Disabilities Act (ADA), violations of New York State Human Rights Law (NYSHRL) and state law tort claims. (Dkt. Nos. 1, 10, 26). On May 10, 2021, Plaintiff filed a third amended complaint, which was referred to United States Magistrate Judge Christian F. Hummel for review under 28 U.S.C. § 1915. (Dkt. Nos. 26, 29). Magistrate Judge Hummel issued a Report-Recommendation on October 25, 2021, recommending that Plaintiff’s claim for failure to provide a reasonable accommodation under Title III of the ADA and the NYSHRL proceed against all Defendants, and that the following claims be dismissed with prejudice: (1) claims for “deliberate indifference” or negligence against all Defendants, (2) claims for disability discrimination under Title III of the ADA and NYSHRL against the individual Defendants, and

(3) claims for disparate treatment of similarly-situated individuals against all Defendants. (Dkt. No. 29). Magistrate Judge Hummel advised Plaintiff that under 28 U.S.C. § 636(b)(1), he had fourteen days within which to file written objections to the Report, and that the failure to object to the report within fourteen days would preclude appellate review. (*Id.* at 16). No objections were filed.

As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee’s note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Court adopts the Report-Recommendation in its entirety.

For these reasons, it is hereby

ORDERED that Plaintiff’s claim for failure to provide a reasonable accommodation pursuant to Title III of the ADA and NYSHRL may proceed against all Defendants;¹ and it is further

ORDERED that Plaintiff’s claims for: (1) “deliberate indifference” or negligence against all Defendants, (2) disability discrimination under Title III of the ADA and NYSHRL against the individual Defendants, and (3) disparate treatment of similarly-situated individuals against all Defendants, are **DISMISSED** with prejudice; and it is further


¹ The Court notes that Plaintiff’s intentional discrimination claim against NYSARC under Title III of the ADA and NYSHRL will also proceed insofar as Plaintiff seeks: (1) injunctive relief under Title III of the ADA; or (2) injunctive relief and/or compensatory damages under NYSHRL. *See* Dkt. No. 29, at 13 n.11 and at 16 n.14.

ORDERED that the Clerk of the Court is directed to return this case to Magistrate Judge Hummel for service of the third amended complaint on Defendants; and it is further

ORDERED that the Clerk serve a copy of this Order on Plaintiff in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: November 29, 2021
Syracuse, New York


Brenda K. Sannes
U.S. District Judge